IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2110 OF 2006

Shri Mahadu Kanu Khirade .. Petitioner

Vs.

State of Maharashtra and ors. .. Respondents

Mr.V.S. Gharat with Mr. S.H. Joshi for petitioner.
Mr.R.M. Patne, AGP for respondent nos.1,3 to 6.

**CORAM: B.H. MARLAPALLE, J.**

**Date : July 10, 2006.**

**P.C.:**

1. Heard the learned counsel for the petitioner who had submitted an application to the Talathi of village Wada on 19/8/2002 to enter his name in the crop cultivation column in respect of Gat Nos.279/2/2, 279/2/1 and 192 (Part) for the relevant year. He had contended in the said application that he was cultivating the said land for the last about 14 years and, therefore, his name was required to be entered into the other rights column in the 7x12 extract/revenue record. In response to the said

application the Talathi visited the land and drew a panchanama dated 7/10/2002 and he also recorded the statement of the petitioner. The Talathi noted that during the visit the petitioner was not cultivating the suit land and, in fact, he is in possession and cultivation of the land in Gat Nos.193/1, 193/2, 193/3, 279/2/3 and 288/3/3 and 192. Based on this report submitted by the Talathi, the Tahsildar rejected the application.

2. The petitioner approached the SDO, who allowed the petitioner's application and directed the Tahasildar to enter his name in the crop cultivation column by his order dated 31/5/2004. The landlord, therefore, approached the Collector and the Additional Collector was pleased to set aside the order passed by the SDO as per the Judgment and Order dated 15/6/2004. The petitioner, therefore, went in revision under Section 257 of the M.L.R.C., 1966 before the Additional Commissioner and the Additional Commissioner was pleased to reject the said revision on 16/8/2005. Hence, this petition under Article 227

of the Constitution.

3. Though the petitioner had claimed that he was cultivating the suit land for about 14 years, he could not produce any copy of the 7x12 extract of any of these 14 years. The inquiry made by the Talathi in response to the petitioner's application indicated, as per the petitioner's statement alone, that he was not in cultivation of the suit land but he was cultivating some other lands as noted hereinabove. The SDO in his order dated 31/5/2005 failed to justify in discarding the contentions that the petitioner was, in fact, cultivating the land as a servant of the landlord. Even if it is presumed that the petitioner was not a servant of the landlord in respect of the suit land, the petitioner on his own admitted that he was not in cultivation of the said land when the Talathi inspected and drew the panchanama in the month of October 2002. Initially the Tahsildar and subsequently the Collector as well as the Additional Commissioner recorded concurrent findings on perusal

of the record and these findings cannot be termed as perverse or patently illegal so as to cause interference under the supervisory powers of this court.

4. Hence, the petition is rejected summarily.

**(B.H. Marlapalle,J.)**